

September 10, 2019

**CASE**

1                    No. 97 SSM 14  
Benedicta Brito,  
    Respondent,  
    v.  
Rafael Gomez et al.,  
    Appellants.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, case remitted to Supreme Court, Bronx County, for further proceedings in accordance with the memorandum herein and certified question answered in the negative.  
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

## MOTIONS

1                    Mo. No. 2019-603  
357 West 54th Street LLC,  
    Respondent,  
    v.  
Madalina Iacob,  
    Appellant.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

1                    Mo. No. 2019-573  
In the Matter of 42/9 Residential LLC,  
    Appellant,  
    v.  
New York City Environmental Control  
Board,  
    Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

4                    Mo. No. 2019-525  
In the Matter of Dagan B.  
  
Ontario County Department of Social  
Services Child Protective Unit,  
    Respondent;  
Calla B.,  
    Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

3                    Mo. No. 2019-522  
Bank of New York Mellon, &c.,  
    Respondent,  
    v.  
Erin Slavin, &c.,  
    Appellant,  
et al.,  
    Defendants.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

2                    Mo. No. 2019-589  
In the Matter of Lyson Bazile, et al.,  
    Petitioners,  
David Jacobs,  
    Appellant,  
    v.  
James R. Rubin, &c., et al.,  
    Respondents.

Motion for reargument of motion for leave to appeal denied.

1                    Mo. No. 2019-600  
The People &c. ex rel. James Berry,  
    Appellant,  
    v.  
J. Ocasio, &c.,  
    Respondent.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

4                    Mo. No. 2019-609  
Carmen Britt, &c.,  
    Appellant,  
    v.  
Buffalo Municipal Housing Authority, et al.,  
    Respondents,  
et al.,  
    Defendants.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.  
Judge Fahey took no part.

4                    Mo. No. 2019-563  
The People &c.,  
    Respondent,  
    v.  
Shakur Byrd,  
    Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2019-607  
Agnieszka Chen,  
    Respondent,  
    v.  
William Chen,  
    Appellant.

Motion for reargument of motion for leave to appeal denied.

2                    Mo. No. 2019-498  
In the Matter of Jennifer Chimienti,  
                         Respondent,  
                         v.  
Nicole Perperis,  
                         Appellant.  
(And Another Proceeding.)

Motion for leave to appeal denied.

3                    Mo. No. 2019-535  
Town of Clifton Park,  
                         Respondent,  
                         v.  
Boni Builders, Inc. et al.,  
                         Appellants,  
Lakshmi Mohan et al.,  
                         Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

3                    Mo. No. 2019-584  
In the Matter of the Claim of Guy Cozzi,  
                         Appellant,  
                         v.  
American Stock Exchange et al.,  
                         Respondents.  
Workers' Compensation Board,  
                         Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution. Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.

1                    Mo. No. 2019-511  
Cheryl H. Daniels,  
                         Respondent,  
                         v.  
New York City Transit Authority,  
                         Appellant.

Motion for leave to appeal granted.

2 Mo. No. 2019-578  
Sofia Fasolas, &c.,  
Respondent,  
v.  
Bobcat of New York, Inc., et al.,  
Defendants,  
Bobcat of Long Island, Inc., et al.,  
Appellants,  
Port Jefferson Rental Center, Inc., &c.,  
Respondent.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2019-505  
The People &c.,  
Respondent,  
v.  
Jaered Greene,  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

2 Mo. No. 2019-565  
The People &c.,  
Respondent,  
v.  
Gerald A. Harris,  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

4 Mo. No. 2019-564  
The People &c.,  
Respondent,  
v.  
Kevin D. Hines,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2019-618  
In the Matter of Richard Horowitz, &c.,  
Appellant,  
v.  
Howard Zucker, &c., et al.,  
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1                    Mo. No. 2019-249  
In the Matter of Jerrold Lerner et al.,  
                  Appellants,  
          v.  
New York City Loft Board et al.,  
                  Respondents.  
(And Another Proceeding.)

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

4                    Mo. No. 2019-594  
In the Matter of Robert J. Lohman,  
                  Appellant,  
          v.  
Theresa L. Egan, &c.,  
                  Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

2                    Mo. No. 2019-512  
In the Matter of State of New York,  
                  Respondent,  
          v.  
James N.,  
                  Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2019-524  
Michelle Nappi,  
                  Appellant,  
          v.  
Community Access, Inc. et al.,  
                  Respondents.

Motion for reconsideration of this Court's May 2, 2019 dismissal order denied.

3                    Mo. No. 2019-576  
In the Matter of National Energy Marketers  
Association, et al.,  
                  Appellants,  
          v.  
New York State Public Service Commission,  
                  Respondent.  
(And Two Other Related Proceedings.)

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.

3                    Mo. No. 2019-550  
In the Matter of Mark S. Purcell et al.,  
                  Appellants,  
          v.  
New York State Tax Appeals Tribunal et al.,  
                  Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1                    SSD 57  
Susan Weinman Resch, et al.,  
                  Appellants,  
          v.  
State of New York, et al.,  
                  Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

3                    Mo. No. 2019-558  
In the Matter of the Claim of Juan Salcedo,  
                  Respondent.  
E.H. Mfg. Inc.,  
                  Appellant.  
Commissioner of Labor,  
                  Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2019-549  
In the Matter of Louis H. Saunders, Jr.,  
                  Appellant,  
          v.  
Latoy Scott,  
                  Respondent.  
(And Four Other Proceedings.)

Motion for leave to appeal denied.

2                    Mo. No. 2019-528  
The People &c.,  
                  Respondent,  
          v.  
Michael S. Scott,  
                  Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

2 Mo. No. 2019-601  
In the Matter of Shalom Bayit, LLC,  
Respondent,  
v.  
Kalmon Glovin et al.,  
Appellants.

Motion for reargument of motion for leave to appeal  
denied.

2 Mo. No. 2019-534  
The People &c.,  
Respondent,  
v.  
Kinsky Souverain,  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

2 Mo. No. 2019-566  
The People &c.,  
Respondent,  
v.  
Christopher Stephensbush, &c.,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2019-529  
The People &c.,  
Respondent,  
v.  
Seth Sudderth,  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

4 Mo. No. 2019-517  
The People &c. ex rel. Vincent Torres,  
Appellant,  
v.  
Harold T. Graham, &c.,  
Respondent.

Motion for reargument of motion for leave to appeal  
denied.  
Judge Fahey took no part.



1                    Mo. No. 2019-516  
Trade Expo Inc. et al.,  
Appellants,  
v.  
Sterling Bancorp, et al.,  
Respondents.

Motion for leave to appeal denied.

2                    SSD 59  
In the Matter of Chassib Wahab,  
Appellant,  
v.  
Maple Crest Garden Apartments, et al.,  
Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question.

                      SSD 58  
In the Matter of Martin T. Wall,  
Appellant,  
v.  
Anthony J. Annucci &c.,  
Respondent.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Fourth Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (see NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

4                    Mo. No. 2019-619  
Richard H. Warner, &c.,  
Appellant,  
v.  
State of New York,  
Respondent.  
(And Another Action.)

Motion for reargument of motion for leave to appeal denied.

2                    Mo. No. 2019-552  
John L. Weslowski,  
Appellant,  
v.  
Patricia Zugibe, &c. et al.,  
Respondents,  
et al.,  
Defendant.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

4                    Mo. No. 2019-577  
The People &c.,  
    Respondent,  
    v.  
Clarence Williams,  
    Appellant.

Motion for leave to appeal denied.